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BRIAN C. McNEIL
EXECUTIVE SECRETARY

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ARIZONA CORPORATION COMMISSION

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DATE: March 14, 2001

Arizona Corporation Commission

DOCKETED

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DOCUMENT CONTROL

DOCKET NO: T-03958A-00-0914

MAR 14 2001

TO ALL PARTIES:

DOCKETED BY

Enclosed please find the recommendation of Administrative Law Judge Alicia Grantham. The recommendation has been filed in the form of an Order on:

TELECENTS COMMUNICATIONS, INC.
(RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MARCH 23, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 27, 2001 and MARCH 28, 2001

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
7 TELECENTS COMMUNICATIONS, INC. FOR A
8 CERTIFICATE OF CONVENIENCE AND
9 NECESSITY TO PROVIDE COMPETITIVE
10 RESOLD INTEREXCHANGE
11 TELECOMMUNICATIONS SERVICES EXCEPT
12 LOCAL EXCHANGE SERVICES

DOCKET NO. T-03958A-00-0914

DECISION NO. _____

ORDER

10 Open Meeting
11 March 27 and 28, 2001
12 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 Having considered the entire record herein and being fully advised in the premises, the
14 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. On November 9, 2000, TeleCents Communications, Inc. ("TeleCents" or "Applicant")
17 filed with the Commission an application for a Certificate of Convenience and Necessity
18 ("Certificate") to provide competitive resold interexchange telecommunications services, except local
19 exchange services, within the State of Arizona.

20 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
21 telecommunications providers ("resellers") were public service corporations subject to the
22 jurisdiction of the Commission.

23 3. Applicant is a Michigan corporation authorized to do business in Arizona since 2000.

24 4. Applicant is a switchless reseller, which purchases telecommunications services from
25 various telecommunications service providers.

26 5. On December 27, 2000, Applicant filed Affidavits of Publication indicating
27 compliance with the Commission's notice requirements.

28 6. On January 24, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff

1 Report in this matter.

2 7. In the Staff Report, Staff stated that the Applicant provided its unaudited financial
3 statements for the period ended March 31, 2000, which listed assets of \$265,000, shareholders' equity
4 of \$135,665, and a net income of \$143,200. Based on the foregoing, Staff believes that Applicant
5 lacks adequate financial resources to be allowed to charge customers any prepayments, advances or
6 deposits without establishing an escrow account or posting a surety bond. The Applicant has
7 docketed proof of the establishment of a surety bond in the amount of \$5,000, which shall be in effect
8 for a minimum of one year. The surety bond approximates the total amount of any prepayments,
9 advances, and deposits that the Applicant collects from its customers.

10 8. The Staff Report stated that Applicant has no market power and the reasonableness of
11 its rates would be evaluated in a market with numerous competitors.

12 9. In its Report, Staff recommended the following:

13 (a) Applicant should be ordered to comply with all Commission rules, orders and
14 other requirements relevant to the provision of intrastate telecommunications services;

15 (b) Applicant should be ordered to maintain its accounts and records as required
16 by the Commission;

17 (c) Applicant should be ordered to file with the Commission all financial and other
18 reports that the Commission may require, and in a form and at such times as the
Commission may designate;

19 (d) Applicant should be ordered to maintain on file with the Commission all
20 current tariffs and rates, and any service standards that the Commission may require;

21 (e) Applicant should be ordered to comply with the Commission's rules and
22 modify its tariffs to conform to these rules if it is determined that there is a conflict
between the Applicant's tariffs and the Commission's rules;

23 (f) Applicant should be ordered to cooperate with Commission investigations of
24 customer complaints;

25 (g) Applicant should be ordered to participate in and contribute to a universal
26 service fund, as required by the Commission;

27 (h) Applicant should be ordered to notify the Commission immediately upon
28 changes to the Applicant's address or telephone number;

1 (i) Applicant should file a \$5,000 surety bond to cover the approximate total
2 amount of any prepayments, advances, and deposits that the Applicant will collect
3 from its customers;

4 (j) After one year of operation under the Certificate granted by the Commission,
5 the Applicant should be allowed to file a request for cancellation of its established
6 surety bond, and that such request be accompanied by information demonstrating the
7 Applicant's financial viability. Upon receipt of such filing and after Staff review, Staff
8 shall forward its recommendation to the Commission for a Decision;

9 (k) Applicant's intrastate interexchange service offerings should be classified as
10 competitive pursuant to A.A.C. R14-2-1108;

11 (l) The rates proposed by the Applicant in its most recently filed tariffs should be
12 approved on an interim basis. The maximum rates for these services should be the
13 maximum rates proposed by the Applicant in its proposed tariffs. The minimum rates
14 for the Applicant's competitive services should be the Applicant's total service long
15 run incremental costs of providing those services as set forth in A.A.C. R14-2-1109;
16 and

17 (m) In the event that the Applicant states only one rate in its proposed tariff for a
18 competitive service, the rate stated should be the effective (actual) price to be charged
19 for the service as well as the service's maximum rate.

20 10. Staff recommended approval of the application subject to the following conditions:

21 (a) That Applicant should be ordered to file conforming tariffs within 30 days of
22 an Order in this matter, and in accordance with the Decision;

23 (b) That Applicant should be required to file in this Docket, within 18 months of
24 the date it first provides service following certification, sufficient information for Staff
25 analysis and recommendation for a fair value finding, as well as for an analysis and
26 recommendation for permanent tariff approval. This information must include, at a
27 minimum, the following:

28 1. A dollar amount representing the total revenue for the first twelve
months of telecommunications service provided to Arizona customers by the
Applicant following certification, adjusted to reflect the maximum rates that
the Applicant has requested in its tariff. This adjusted total revenue figure
could be calculated as the number of units sold for all services offered times
the maximum charge per unit.

2. The total actual operating expenses for the first twelve months of
telecommunications service provided to Arizona customers by the Applicant
following certification.

3. The value of all assets, listed by major category, used for the first
twelve months of telecommunications service provided to Arizona customers

1 by the Applicant following certification. Assets are not limited to plant and
2 equipment. Items such as office equipment and office supplies should be
3 included in this list.

4 (c) Applicant's failure to meet the condition to file sufficient information for a fair
5 value finding and analysis and recommendation of permanent tariffs shall result in the
6 expiration of the certificate of the tariffs.

7 11. On August 29, 2000, the Court of Appeals, Division One ("Court") issued its Opinion
8 in US WEST Communications, Inc. v. Arizona Corporation Commission, 1 CA-CV 98-0672, holding
9 that "the Arizona Constitution requires the Commission to determine fair value rate base ("FVRB")
10 for all public service corporations in Arizona prior to setting their rates and charges."

11 12. On October 26, 2000, the Commission filed a Petition for Review to the Arizona
12 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this
13 time, we are going to request FVRB information to insure compliance with the Constitution should
14 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We are
15 also concerned that the cost and complexity of FVRB determinations must not offend the
16 Telecommunications Act of 1996.

17 13. No exceptions were filed to the Staff Report, nor did any party request that a hearing
18 be held.

19 CONCLUSIONS OF LAW

20 1. Applicant is a public service corporation within the meaning of Article XV of the
21 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

22 2. The Commission has jurisdiction over Applicant and the subject matter of the
23 application.

24 3. Notice of the application was given in accordance with the law.

25 4. Applicant's provision of resold intrastate telecommunications services is in the public
26 interest.

27 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive
28 intrastate telecommunications as a reseller in Arizona.

Staff's recommendations in Findings of Fact Nos. 9 and 10 are reasonable and should

1 be adopted.

2 **ORDER**

3 IT IS THEREFORE ORDERED that the application for TeleCents Communications, Inc. for
4 a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange
5 telecommunications services, except local exchange services, shall be and the same is hereby granted.

6 IT IS FURTHER ORDERED that TeleCents Communications, Inc. shall comply with the
7 Staff recommendations set forth in Findings of Fact Nos. 9 and 10.

8 IT IS FURTHER ORDERED TeleCents Communications, Inc. shall file the following FVRB
9 information within 18 months of the date that it first provides service. The FVRB shall include a
10 dollar amount representing the total revenue for the first twelve months of telecommunications
11 service provided to Arizona customers by TeleCents Communications, Inc. following certification,
12 adjusted to reflect the maximum rates that TeleCents Communications, Inc. requests in its tariff. This
13 adjusted total revenue figure could be calculated as the number of units sold for all services offered
14 times the maximum charge per unit TeleCents Communications, Inc. shall also file FVRB
15 information detailing the total actual operating expenses for the first twelve months of
16 telecommunications service provided to Arizona customers by TeleCents Communications, Inc.
17 following certification. TeleCents Communications, Inc. shall also file FVRB information which
18 includes a description and value of all assets, including plant, equipment, and office supplies, to be
19 used to provide telecommunications service to Arizona customers for the first twelve months
20 following TeleCents Communications, Inc.'s certification.

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1 IT IS FURTHER ORDERED that within 30 days of the effective date of this Decision,
 2 TeleCents Communications, Inc. shall notify the Compliance Section of the Arizona Corporation
 3 Commission of the date that it will begin or has begun providing service to Arizona customers.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

6
 7
 8 CHAIRMAN

COMMISSIONER

COMMISSIONER

9
 10 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 11 Secretary of the Arizona Corporation Commission, have
 12 hereunto set my hand and caused the official seal of the
 13 Commission to be affixed at the Capitol, in the City of Phoenix,
 14 this ____ day of _____, 2001.

15 BRIAN C. McNEIL
 EXECUTIVE SECRETARY

16 DISSENT _____
 17 AG:mlj

1 SERVICE LIST FOR: TELECENTS COMMUNICATIONS, INC.

2
3 DOCKET NO.: T-03958A-00-0914

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